



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

AUG 30 2005

THE ADMINISTRATOR

Honorable Jeb Bush
Office of the Governor
The Capitol
Tallahassee, Florida 32399-0001

Honorable Robert Riley
Office of the Governor
State Capitol
600 Dexter Avenue
Montgomery, Alabama 36130-2751

Honorable Kathleen Blanco
Office of the Governor
P.O. Box 94004
Baton Rouge, Louisiana 70804

Honorable Haley Barbour
Office of the Governor
P.O. Box 139
Jackson, Mississippi 39205

Re: Emergency Fuel Waiver Concerning Diesel Fuel and Gasoline for the States of Florida, Louisiana, Alabama and Mississippi, August 2005

Dear Madam and Sirs:

The United States Environmental Protection Agency (EPA), in consultation with the Department of Energy and representatives of the States of Florida, Alabama, Louisiana and Mississippi, has been working to evaluate the prospect of gasoline and diesel fuel supply problems being experienced in those states as a result of Hurricane Katrina. Based on this evaluation, EPA and the affected States have concluded that shortages of gasoline meeting Federal and State requirements for Reid Vapor Pressure (RVP) below 9.0 pounds per square inch (psi) and low-sulfur diesel fuels currently exist in those States.

Gasoline in certain areas designated in 40 C.F.R. § 80.27 and/or in the relevant State Implementation Plan in each of Florida, Alabama, Louisiana and Mississippi (the "affected States") are required to have a RVP of 7.8 pounds psi (or less) during the high ozone season fuels

control period. Gasoline in all other areas in affected States is subject to a 9.0 psi RVP standard. In addition, under the Clean Air Act (CAA) sections 211(g), (h) and (i), 42 U.S.C. §§ 7545(g), (h) and (i), and the regulations promulgated thereunder at 40 C.F.R. Part 80, motor vehicle diesel fuel must have a sulfur content that does not exceed 500 parts per million (ppm) and be free of visible evidence of red dye.

I have determined that an "extreme and unusual fuel supply circumstance" exists in the above-identified States that will prevent the distribution of an adequate supply of compliant fuel to consumers. CAA § 211 (c)(4)(C). This fuel circumstance is the result of Hurricane Katrina, a natural disaster, that could not reasonably have been foreseen or prevented and not attributable to a lack of prudent planning on the part of the suppliers of the fuel to these affected States. *Id.* Furthermore, I have determined that it is in the public interest to grant a waiver and that this waiver applies to the smallest geographic area necessary to address the fuel supply circumstances. Accordingly, pursuant to Section 211 (c)(4)(C) of the Clean Air Act, 42 U.S.C. § 7545 (c)(4)(C), EPA will temporarily allow all parties in the fuel distribution system including refiners, importers, distributors, carriers and retail outlets (regulated parties) to supply gasoline meeting a RVP standard of 9.0 psi in areas for which a lower RVP is required in the affected States. Further, because of the expected shortage of motor vehicle diesel fuel meeting the 500 ppm sulfur standard, EPA will temporarily allow regulated parties to supply motor vehicle diesel fuel to affected States having a sulfur content greater than 500 ppm with visible evidence of red dye. This waiver is effective immediately and will continue through the remainder of the high ozone period, through September 15, 2005. However, retail outlets or wholesale purchaser-consumers that receive motor vehicle diesel fuel having a sulfur content greater than 500 ppm with visible evidence of red dye, under the terms of this waiver may continue selling or dispensing this fuel after September 15, 2005, until their supplies are depleted.

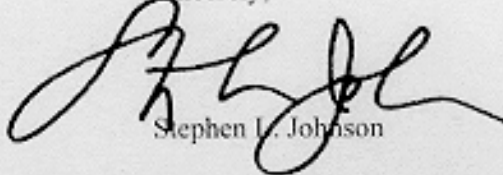
To the extent practicable, regulated parties must take all reasonable steps to provide compliant gasoline and diesel fuel for use within the States of Alabama, Florida and Louisiana. Thus, regulated parties must use compliant fuel that is available before using any non-compliant fuel, and regulated parties who transport fuel into affected States must take reasonable steps to transport enough compliant fuel to meet expected demand.

If a regulated party elects to supply motor vehicle diesel fuel having a sulfur content greater than 500 ppm, or to supply gasoline having a RVP of 9.0 psi in areas with a lower RVP requirement in affected States, to retail outlets or wholesale facilities under this waiver, the party must submit a written report to EPA no later than December 15, 2005, which indicates the total volume of motor vehicle diesel fuel with a sulfur content greater than 500 ppm and/or gasoline not meeting the applicable Federal and/or State RVP standard supplied to these retailers and wholesale facilities, on a per day basis. These reports must be sent to the following address:

Adam M. Kushner, Director
Air Enforcement Division
Mail Code 2242A
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

If you have questions, please call me, or your staff may contact Adam M. Kushner at 202-564-2260.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. L. Johnson', with a stylized flourish at the end.

Stephen L. Johnson

cc: Secretary Samuel W. Bodman, Department of Energy